

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIHAL EMBERTON,
Plaintiff,

v.

SAN FRANCISCO CITY GOVERNMENT,
Defendant.

Case No. [22-cv-05440-TSH](#)

**ORDER STRIKING FEDERAL
CLAIMS AND REMANDING STATE
LAW CLAIMS**

On September 23, 2022, Defendant removed this case from San Francisco Superior Court. ECF No. 1. On February 15, 2023, the Court granted Defendant's Motion for Judgment on the Pleadings as to Plaintiff's federal law claims and deferred decision on Plaintiff's state law claims. ECF No. 19 at 16. As the Court explained, "[b]ecause it is unclear whether Plaintiff will be able to state a federal claim – and the federal claims provide the basis for this Court's jurisdiction – and because of concerns raised by the City as to the ripeness of Plaintiff's state law claims and concerns of the Court related to comity, the Court does not address Defendant's arguments in favor of judgment on the pleadings for the state claims at this time." *Id.* at 15. The Court granted Plaintiff leave to amend certain federal claims. *Id.* at 16.

Plaintiff filed a Second Amended Complaint on April 11, 2023 raising only federal claims. ECF No. 23. On June 13, 2023, the Court granted dismissal of Plaintiff's federal claims pursuant to 42 U.S.C. § 1983 without prejudice based on *Younger*¹ abstention. ECF No. 35 at 19. The Court granted dismissal of Plaintiff's federal claim under the Racketeering Influenced and Corrupt Organizations Act and denied leave to amend. *Id.*

¹ *Younger v. Harris*, 401 U.S. 37 (1971).

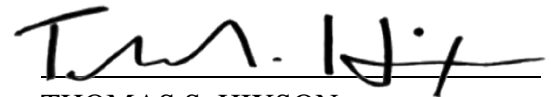
1 Plaintiff's Second Amended Complaint did not include any state law claims. That meant
2 that no state law claims were then before the Court. However, the Court doubted that Plaintiff
3 intended to drop her state law claims. The Court considered Plaintiff's *pro se* status and the lack
4 of clarity in its prior Order, and granted Plaintiff leave to amend solely as to her state law claims.
5 *Id.* at 18-19. The Court instructed that upon submission of an amended complaint, the Court
6 would remand the action for further proceedings on the state law claims. *Id.* at 19.

7 On July 11, 2023, Plaintiff filed a Third Amended Complaint. ECF No. 36. The Third
8 Amended Complaint raises state law claims, but also appears to include federal claims pursuant to
9 42 U.S.C. § 1983. *See, e.g.*, ECF No. 36 at 9. To the extent Plaintiff raises federal claims in the
10 Third Amended Complaint, the Court **STRIKES** such claims, as they exceed the scope of leave to
11 amend.

12 Pursuant to 28 U.S.C. § 1367(c)(3), the Court now declines to exercise supplemental
13 jurisdiction over Plaintiff's state law claims because the Court has dismissed all of the claims over
14 which it has original jurisdiction. The Court therefore **REMANDS** Plaintiff's state law claims to
15 San Francisco Superior Court.

16 **IT IS SO ORDERED.**

17
18 Dated: July 21, 2023



THOMAS S. HIXSON
United States Magistrate Judge